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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/791,372

03/01/2004

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1131-102.US

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07/10/2008

EXAMINER

OMGBA, ESSAMA

ART UNIT

PAPER NUMBER

3726

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/791,372	<b>Applicant(s)</b> JANOVICI ET AL.	
	<b>Examiner</b> Essama Omgba	<b>Art Unit</b> 3726	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: on page 6, line 21, "for" should be deleted; and on page 12, line 6, "them" should read --the--.

Appropriate correction is required.

### ***Claim Objections***

2. Claims 4, 5, 10, 11, 20, 21, 22-24, 26 and 27 are objected to because of the following informalities: in claims 4 and 5, --the-- should be inserted before "first sleeve" in line 1 of claim 4, and before "second sleeve" in line 1 of claim 5; in line 3 of claim 10, "connect" should read --connects--; in claim 20, line 1, --the-- should be inserted before "collar"; in claim 21, line 1, --the-- should be inserted before "plug"; in claim 22, line 2, "connect" should read --connects--; and in claim 26, line 3, "connect" should read --connects--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 9, 12, 13, 16 and 17-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 9 recites the limitation "the handle portion" in line 1. There is insufficient antecedent basis for this limitation in the claim.
6. Claim 12 recites the limitations "the tapering portions", "the second end portions" and "the first end portions" in lines 1-3. There is insufficient antecedent basis for these limitations in the claim.
7. Claim 16 recites the limitation "the pivotal connection" in line 9. There is insufficient antecedent basis for this limitation in the claim.
8. Claim 17 recites the limitation "the pivotal connection" in line 9. There is insufficient antecedent basis for this limitation in the claim.
9. Claim 25 recites the limitation "the handle portion" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.
10. Claim 28 recites the limitation "the second end portions" and "the first end portions" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claim 15 is rejected under 35 U.S.C. 102(b) as being anticipated by Nichols (US Patent 2,958,125).

Nichols discloses a clamp 10 comprising a housing member (22 in combination with 90 and 92) defining an opening for receiving and holding a component 12 (figure 4), an abutment member 94 adjacent the housing member, a handle 102 having a first end pivotally connected to the housing member at 108, a bracket member 114 pivotally connected to the abutment member at one portion thereof at 116 and pivotally connected to the handle at another portion thereof at 118, wherein rotation of the handle about its pivotal connection to the housing member moves the housing member and the abutment member relative to each other between a first position and a second position where the housing member and the abutment member are further apart from each other than in the first position, see figures 1, 2 and 3.

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 1-3, 6-9, 12-14, 16-19, 22-25 and 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nichols in view of Williams (US Patent 5,479,604).

With regards to claims 1-3, and 16-19, Nichols discloses a clamp 10 comprising a housing member (22 in combination with 90 and 92) defining an opening for receiving and holding a component 12 (figure 4), an abutment member 94 adjacent the housing member, a handle 102 having a first end pivotally connected to the

housing member at 108, a bracket member 114 pivotally connected to the abutment member at one portion thereof at 116 and pivotally connected to the handle at another portion thereof at 118, wherein rotation of the handle about its pivotal connection to the housing member moves the housing member and the abutment member relative to each other between a first position and a second position where the housing member and the abutment member are further apart from each other than in the first position, see figures 1, 2 and 3. Nichols does not disclose the housing member and the abutment member as being sleeve members or ring members defining circular openings for receiving components. However Williams teaches such sleeve or ring members, see elements 42, 43 in figures 8 and 9. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to have substituted the sleeve or ring members of Williams for the housing and abutment members of Nichols, in order to grip the components more securely. Applicant should note that the recited collar and inline plug or socket are structurally equivalent to the first and second sleeve members.

For claims 6-9, 12-14, 22-25 and 28-30, see figures 1-4 of Nichols.

### ***Double Patenting***

15. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated

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by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

16. Claims 1-15 and 17-30 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-13 of U.S. Patent No.

6,701,595. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims of the instant application are generally broader than claims 1-13 of US Patent 6,701,595. Applicant should note that the recited collar and inline pug or socket are structurally equivalent to the first and second sleeve members.

### **Conclusion**

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Essama Omgba whose telephone number is (571) 272-4532. The examiner can normally be reached on M-F 9-6:30, 1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bryant can be reached on (571) 272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Essama Omgba/  
Primary Examiner, Art Unit 3726

eo  
July 7, 2008